

REMARKS / ARGUMENTS

Summary of Claims Pending

Claims 17-21, 23 and 25, 26, 28 and 30 are now pending.

Double Patenting Rejections

The pending claims stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of co-pending Application No. 11137831 (filed May 24, 2005).

According to MPEP § 804, “If a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.”

It should be noted that the present application is the earlier filed of the two pending applications. It is further urged that upon entry of the current claim amendments and consideration of these Remarks, the provisional obviousness-type double patenting rejection will be the only rejection remaining in this (the earlier filed) application, and that this application should be permitted to issue as a patent without a terminal disclaimer.

Claim Rejections 35 USC 112

It is urged that the amendments made herein in claim 17 overcome the stated basis for rejection of claim 17-21, 23, 25-26, 28 and 30 under 35 USC 112, second paragraph.

Application No. 10/719,369
Amendment dated October 24, 2008
Reply to Office action of May 15, 2008

Conclusion

It is urged that upon entry of the instant amendments all claims in this application will be allowable and that the application as a whole will be in condition for allowance.

Respectfully submitted,

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